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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91197118
Party	Defendant James Caridi, Michael J. Maimone
Correspondence Address	G. ROXANNE ELINGS GREENBERG TRAURIG, LLP 200 PARK AVE FL 14 NEW YORK, NY 10166-1400  nytmdkt@gtlaw.com
Submission	Answer
Filer's Name	G. Roxanne Elings
Filer's e-mail	elingsr@gtlaw.com, dallavala@gtlaw.com, falbyo@gtlaw.com, biancoc@gtlaw.com, kleinm@gtlaw.com
Signature	/GRE/
Date	12/06/2010
Attachments	SweetPeople.pdf ( 5 pages )(165308 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 77/942,874  
Published in the *Official Gazette* on October 12, 2010  
For the mark: Do You Miss Me Yet?

-----X	X
	:
SWEET PEOPLE APPAREL, INC.,	:
	:
<i>Opposer,</i>	:
	:
- against -	:
	:
JAMES CARIDI AND MICHAEL J. MAIMONE,	:
	:
<i>Applicants.</i>	:
	:
-----X	X

**ANSWER**

Applicants James Caridi and Michael J. Maimone (“Applicants”), by and through its undersigned counsel, hereby answer and assert affirmative defenses to the Notice of Opposition (the “Notice”) of Opposer Sweet People Apparel, Inc. (“Opposer”). To the extent that a response to the statements in the introductory paragraph of the Notice is required, Applicants (a) lack sufficient information and knowledge to admit or to deny the nature Opposer’s legal entity and address, (b) admit that James Caridi is an individual located at 8327 SW 17<sup>th</sup> Lane, Gainesville, Florida 32607, (c) admit that Michael J. Maimone is an individual located at 100-121 Baker Court, Inland Park, New York 11558, (d) deny that Opposer will be damaged by registration of the mark Do You Miss Me Yet?, Serial Number 77/942,874 (the “Applicants’ Mark”), and (e) admit that the Applicants’ mark was published in the *Official Gazette* on October 12, 2010.

Applicants answer and respond to the like-numbered paragraphs of the Notice as follows:

1. Applicants lack sufficient information and knowledge to admit or to deny the allegations set forth in Paragraph 1 of the Notice.

2. Applicants neither admit nor deny the allegations set forth in Paragraph 2 of the Notice because the allegations do not require such a response, and Applicants respectfully refer to the U.S trademark registrations listed in Paragraph 2 of the Notice for a full and complete statement of their content.

3. Applicants neither admit nor deny the allegations set forth in Paragraph 3 of the Notice because the allegations do not require such a response, and Applicants respectfully refer to the trademark applications listed in Paragraph 3 of the Notice for a full and complete statement of their content.

4. Applicants state that Paragraph 4 of the Notice sets forth statements to which no responsive pleading is required, and, therefore, those allegations are denied. To the extent that a responsive pleading is required, Applicants deny the allegations set forth in Paragraph 4 of the Notice.

5. Applicants lack sufficient information and knowledge to admit or to deny the allegations set forth in Paragraph 5 of the Notice.

6. Applicants lack sufficient information and knowledge to admit or to deny the allegations set forth in Paragraph 6 of the Notice.

7. Applicants lack sufficient information and knowledge to admit or to deny the allegations set forth in Paragraph 7 of the Notice.

8. Applicants deny the allegations set forth in Paragraph 8 of the Notice, except admit (a) that, on February 23, 2010, Applicants filed an application based upon Section 1(b) of the Lanham Act to register the Applicants' Mark in connection with (among other things) "[a]pparel, namely, bandanas, handkerchiefs, shirts, jackets, coats, gloves, hats, t-shirts, sweat shirts, sweat jackets and sweat pants" in International Class 25, (b) that such application was assigned Serial No. 77/942,874, and (c) that the Applicants' Mark was published in the *Official Gazette* on October 12, 2010.

9. Applicants admit the allegations set forth in the first sentence of Paragraph 9 of the Notice. Applicants state that the second sentence of Paragraph 9 of the Notice sets forth statements to which no responsive pleading is required, and, therefore, those allegations are denied. To the extent that a responsive pleading is required, Applicants deny the allegations set forth in the second sentence of Paragraph 9 of the Notice.

10. Applicants deny the allegations set forth in Paragraph 10 of the Notice.

11. Applicants deny the allegations set forth in Paragraph 11 of the Notice.

12. Applicants deny the allegations set forth in Paragraph 12 of the Notice.

13. Applicants deny the allegations set forth in Paragraph 13 of the Notice.

14. Applicants deny the allegations set forth in Paragraph 14 of the Notice.

#### AFFIRMATIVE DEFENSES

15. There is no likelihood of confusion, mistake or deception because, *inter alia*, (a) Applicants' Mark is not confusingly similar to Opposer's marks, (b) Applicants' Mark does not suggest a connection between Applicants and Opposer, (c) Applicants' Mark will not damage Opposer's goodwill in Opposer's marks, (d) Applicants' Mark will not dilute the distinctive qualities of Opposer's marks, (e) Applicants' Mark and

Opposer's marks differ in the appearance and the commercial impression, (f) the goods and services with which the Applicants' Mark actually is used differ from, and are not related to, the goods and services with which the Opposer's marks actually are used, and (g) the channels of trade in which the goods and services related to the Applicants' Mark travel differ from the channels of trade in which the goods and services related to the Opposer's marks travel.

16. Opposer's claims are barred because of laches, estoppel, waiver and/or acquiescence.

17. Upon information and belief, Opposer abandoned use of Opposer's marks in connection with some or all of the goods identified in the Opposer's registrations.

WHEREFORE, having fully answered, Applicants pray for judgment against Opposer dismissing the Notice of Opposition with prejudice, and awarding Applicants such other and further relief as the Board deems just, fair and equitable.

Dated: December 6, 2010

Respectfully submitted,  
GREENBERG TRAURIG, LLP

By:   /annadallaval/                      
G. Roxanne Elings  
Anna Dalla Val  
200 Park Avenue  
New York, New York 10166  
Tel: (212) 801-9200  
Fax: (212) 801-6400  
*Attorneys for Applicant*

Of Counsel:  
GREENBERG TRAURIG, LLP  
Michael J. Maimone  
1007 North Orange Street, Suite 1200  
Wilmington, Delaware 19801  
Tel.: (302) 661-7000  
Fax.: (302) 661-7360

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 6<sup>h</sup> day of December 2010, a copy of the foregoing ANSWER was served upon Opposer's counsel of record by depositing a true copy thereof with the United States Postal Service as First-Class Mail:

Louis S. Ederer, Esquire  
John Maltbie, Esquire  
Maxwell C. Preston, Esquire  
ARNOLD & PORTER LLP  
399 Park Avenue  
New York, New York 10022

A handwritten signature in black ink, appearing to read 'Michael Klein', written over a horizontal line.

Michael Klein